IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.NO. 2120 /2002

PETITIONER HEERALAL, S/O. LATE SHRI SHIVPRASAD, AGED ABOUT 30 YEARS, OCCUPATION-AGRICULTURIST, BY CASTE-RAJWAR, R/O. VILLAGE- BATARA, P.O. BATRA, P.S. JAINAGAR, TAH. SURAJPUR, DISTT. SURGUJA (C.G.)

P. R. No. 8/8/02
Presented by Shri Manoj Mishra
dated 4.10.02

VERSUS

RESPONDENTS 1) RAJMENBAI, WIDOW OF LATE SHRI HEERASAI, AGED ABOUT 35 YEARS, OCCUPATION-HOME SISTER, BY CASTE-RAJWAR, R/O. VILLAGE-BATARA, P.S. JAINAGAR, TAH. SURAJPUR, DISTT. SURGUJA (C.G.)

4.10.02

WRIT PETITION UNDER 'ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT, OR WRITS, DIRECTION OR DIRECTIONS, IN THE NATURE OF MANDAMUS, CERTIORARI, PROHIBITION ETC.

(47)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 2120 सन् 2002

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	01/02/2005: - Shri Sushil Dubey learned counsel for the petitioner. Heard on admission. Petitioner Heeralal is the non-applicant in a pending matter before the Labour Court, Ambikapur vide case No.56/2002 W.C. Act (F). The petitioner is aggrieved by an order dated 12/09/2002 passed by the Labour Court by which his preliminary objection in relation to the maintainability of the case has been dismissed by the Labour Court. The facts of the case are that the applicant (respondent herein) Smt. Rajmen Bai filed an application under Section 10 of the Workmen's Compensation Act, 1923 for realizing her claim against the petitioner on account of death of her son namely Niranjan. The allegations are that Niranjan died during the course of employment of the petitioner. Therefore, she is not entitled to receive certain compensation from the petitioner. The petitioner appeared before the Labour Court and filed his objection regarding maintainability of the case. A copy of the objection is also filed as Annexure-P/4 in this petition. The main objection taken by the petitioner is that in fact the deceased was not working with the petitioner and the death of the deceased was suicidal in nature, as he had consumed certain poison on his own account. Learned counsel appearing for the petitioner submits that since the provisions of the Workmen's Compensation Act are not attracted and further since the petitioner was not the employer of the deceased and the	

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relationship of employer and employee does not exist between them, therefore, the petition is not maintainable. Reply to this objection was filed by the respondent before the Labour Court who denied the contentions of the petitioner.

Learned Labour Court after hearing the parties dismissed the preliminary objection holding that the claim cannot be dismissed at preliminary stage on this preliminary objection because the disputed questions of facts are to be decided on merits in this case.

I have also examined the records filed by the petitioner. Whether the death of deceased Niranjan was a suicidal death or not, whether the deceased was in the employment of the petitioner or not and whether the mother of the deceased, the respondent herein, was entitled to receive compensation on account of such death or not are the important questions to be decided in this matter which are certainly the matter of evidence and cannot be decided at the preliminary stage. The order impugned passed by the Labour Court on 12/09/2002 (Annexure-P/1) does not suffer with any illegality and the preliminary objection has rightly been dismissed. The petition has no merit and therefore the same is dismissed. The petitioner is directed to participate before the Labour Court and file his reply in accordance with law which shall be considered on its own merits at an appropriate stage.

Sd/-
Sunil Kumar Sinha
Judge

Brajesh.